

Chapter 11 —Procurement

Procurement is the orderly process of acquiring, by lease or purchase, goods and services such as food, meals, equipment, bookkeeping, and auditing. You must comply with state and federal procurement procedures. These procedures enable you to purchase goods and services at the best available price and avoid conflicts of interest when making your purchases.

Costs incurred through improper procurements will be disallowed. If we disallow costs because of improper procurements, we may determine that your food service operation is not nonprofit and reduce your benefits or terminate your participation in the program.

You can only participate in the CACFP if you operate a nonprofit food service.

Conflicts Of Interest

You cannot allow a conflict of interest or potential conflicts of interest when procuring goods and services. You must establish and maintain a written code of standards of conduct. No officer, agent, consultant, contractor, volunteer, or other employee of your organization may engage in any activity which causes or could cause a conflict of interest in the operation of the CACFP, including but not limited to:

- renting or leasing from a firm in which any officer, agent, consultant, or employee (or relative) has an interest;
- soliciting or accepting gratuities, favors, or anything of monetary value from contractors, potential contractors, providers or other subcontractors;
- participating as a provider while actively engaged in the day-to-day operations of your sponsorship (board members are not considered "actively" engaged in the day-to-day operations);
- soliciting donations or fees from providers; or
- asking providers to engage in any kind of business on your behalf.

Procurement Methods

Depending on the circumstances, you must choose from the following methods of purchasing:

- small purchase;
- competitive sealed bids;
- competitive negotiation; and
- noncompetitive negotiation.

You must keep written procurement procedures for how you will:

- make purchases;
- advertise (if needed) the items that you plan to purchase;

- select and evaluate various bids or proposals; and
- evaluate potential contractors, i.e., the criteria that you will use may include integrity, compliance with public policy, past performance, and financial and technical resources.

Regardless of the dollar amount or the method of procurement used, you must ensure free and open competition. You cannot:

- require unreasonable credentials for potential bidders when qualifying them to do business;
- allow noncompetitive practices between suppliers;
- permit organizational conflicts of interest; or
- impose unnecessary experience and bonding requirements on suppliers who seek your business.

Small Purchase

If purchasing services, supplies, or other property with an aggregate cost under \$150,000 in a fiscal year, you may use small purchase procedures. The \$150,000 aggregate limit applies to single items, e.g., rent and many items of the same general type of product, e.g., office supplies.

Even if you use these procedures, you must try to obtain the best possible price. You should solicit price or rate quotations and other relevant information from as many sources as possible. You must follow formal bid procedures for each procurement with an aggregate value of more than \$150,000.

Competitive Sealed Bids

You must use competitive sealed bids if a purchase is \$150,000 or more and you can:

- completely and accurately describe the item that you want to purchase;
- locate two or more responsible suppliers that are willing to compete for your business;
- award a firm-fixed price contract; and
- choose from among bidders mainly on the basis of price.

When conducting a competitive sealed bid, you will:

- advertise publicly, e.g., in a newspaper;
- solicit bids from an adequate number of known suppliers;
- clearly describe the item that you want to purchase in the invitation to bid;
- publicly open the bids at the time and place stated in the invitation; and
- award the contract to the lowest bidder that meets the requirements of the invitation.

Example: You purchase software for your providers at a cost of \$162,000 per year. There are several options in your community. Since the purchase is over \$150,000 and this type of purchase lends itself to sealed bids, you must advertise your software contract for sealed bids.

Competitive Negotiation

You should use competitive negotiation for purchases of \$150,000 or more when the conditions for sealed bids do not exist. The competitive negotiation method of procurement requires you to publicize a request for proposals (RFP) and solicit proposals as well. After you receive the proposals, you will conduct negotiations with two or more contractors.

When using competitive negotiation, you must:

- solicit proposals from an adequate number of qualified sources;
- publicize your RFP;
- honor all requests to compete as far as practical;
- identify in the RFP how you will choose the successful bidder;
- have a written procedure for evaluating proposals, for determining with whom you will negotiate, and for selecting the successful bidder;
- award contracts to the most advantageous bidder; and
- promptly notify unsuccessful bidders.

Example: You want to purchase accounting services that would cost more than \$150,000 per year. Since several factors are of equal or greater importance than price, you may want to use competitive negotiation for this purchase.

Non-Competitive Negotiation

In noncompetitive negotiation, you negotiate with a single source. You may use this method only when you have been granted permission from the State Agency. We may permit you to use this method under the following conditions:

- the item that you want to purchase is only available from one source;
- an emergency exists; or
- you determine that competition is inadequate after soliciting several sources.

Contracts

Contracts must be sound, complete, and include certain required elements. Contact the State Agency for additional information and guidance.